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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/847,044	05/02/2001	Mark A. Kampe	80168-0101	5220
32658	7590	07/09/2004	EXAMINER	
HOGAN & HARTSON LLP ONE TABOR CENTER, SUITE 1500 1200 SEVENTEEN ST. DENVER, CO 80202			BARQADLE, YASIN M	
		ART UNIT	PAPER NUMBER	
		2153		

DATE MAILED: 07/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/847,044	KAMPE ET AL.	
	Examiner	Art Unit	
	Yasin M Barqadle	2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 02 May 2001.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-15 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

1. Claims 1-15 are presented for examination.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Frank et al U.S. Patent (6532494).

As per claim 1, Frank et al teach a system for monitoring cluster memberships within a clustered computer network (fig. 1 and abstract), comprising:

at least one node [fig.1, nodes 12, 14, 16 and 18];
a membership monitor entity (fig. 2, cluster manager 32)
located on the at least one of each node (node 12) [col. 5, lines 1-5].

As per claim 2, Frank et al teach the system of claim 1, further comprising at least one node data entry on each node [Repository 46, fig. 4 and col. 6, lines 14-40].

As per claim 3, Frank et al teach the system of claim 2, wherein the node data entry further comprises a node id entry, a node type and a master priority value entry [col. 7, lines 11-31].

As per claim 4, Frank et al teach the system of claim 1, further comprising a high resolution timer located on each node [each node sends and receives heartbeat messages in a predetermined interval inherently having a timer [col. 5, lines 6-24].

As per claim 5, Frank et al teach the system of claim 1, further comprising a log for logging [log 54, fig. 4].

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As per claim 6, Frank et al teach the system of claim 1, further comprising a repository for storing cluster configuration data [repository 46, fig. 4 and col.7, lines 11-37]

As per claim 7, Frank et al teach the system of claim 1, further comprising a hold off timer [col. 5, lines 13-24 and col. 8, lines 8-21].

As per claim 8, Frank et al teach a method for joining a cluster (cluster 10) with a cluster membership monitor (fig. 2, cluster manager 32) within a clustered computer network [fig. 2], comprising the steps of:

starting a local cluster membership monitor entity on a node when it boots [after a failure a coordinator node rejoins the cluster and a new coordinator is selected col. 8, lines 43-65];

establishing contact with peer cluster membership monitor entities [col. 3, lines 46 to col. 4, line 16]; and

wherein if peers are found a consensus protocol is performed [one of the member nodes is designated as a coordinator node based on node id col. 7, lines 27-37 and col. 10, lines 44-51].

As per claim 9, Frank et al teach the method of claim 8, further comprising the step of determining if a master node exists, wherein if a master exist the node joins the cluster [col. 7, lines 11-37].

As per claim 10, Frank et al teach the method of claim 9, further comprising the step of obtaining configuration data from a master cluster membership monitor entity located on the master node [col. 7, lines 27-65].

As per claim 11, Frank et al teach the method of claim 10, further comprising the step of logging in a local system log of the master node a cluster joint event [col. 7, lines 57 to col. 8, line 25].

As per claim 12, Frank et al teach a method for monitoring the viability of cluster members comprising the steps of providing a heartbeat by a master node [col. 5, lines 63 to col. 28]; and

wherein if the heartbeat is within a peer node time-out period, the peer node responds, otherwise a cluster reformation occurs [col. 7, lines 27-37].

As per claim 13, Frank et al teach the method of claim 12, further comprising the steps of verifying that each peer node has responded to the heartbeat [col. 5, lines 6-24]; and wherein if all nodes listed in a master list of cluster members have responded, another heartbeat can be provided, and wherein otherwise a node not responding is removed from the list

of cluster members and a cluster change request is made [col. 9, lines 63 to col. 10, lines 43].

As per claim 14, Frank et al teach the method of claim 13, wherein the cluster change request further comprises notifying a cluster coordination function [col. 7, lines 22-65].

As per claim 15, Frank et al teach the method of claim 12, wherein the cluster reformation further comprises the steps of:

verifying if cluster reformation has already been initiated [col. 7, lines 57 to col. 8, line 25]; and

wherein if cluster reformation has not been initiated, cluster reformation is initiated [col. 7, lines 57 to col. 8, line 25];

the highest priority node becomes the master node [col. 7, lines 23-31]; and

the master heartbeat can be provided [col. 5, lines 63 to col. 28 and col. 10, lines 17-32].

Conclusion

The prior made of record and not relied upon is considered pertinent to applicant's disclosure.

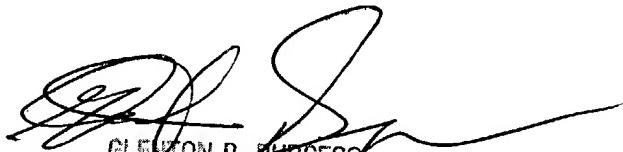
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yasin

Barqadle whose telephone number is 703-305-5971. The examiner can normally be reached on 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Burgess can be reached on 703-305-4792. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Yasin Barqadle
Art Unit 2153



GLENTON B. BURGESS
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